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Case 10: 9000972

AMCONSUL ENFRORU POUCH

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DEPARTMENT PASS ELECTRONICALLY TO USTR FOR HASSEY

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TAGS: ETED, CH SUBJECT: AUSTR MASSEY'S VISIT TO BEIJING: TRANSPARENCY OF CHINA'S TRADE SYSTEM

- 1. THE TRANSPARENCY OF CHINA'S TRACE SYSTEM IS ONE AREA THAT WE EXPECT AUSTH MASSEY WILL MAISE DURING HIS MACONING MISEL TO BEILING. OUR THOUGHTS ON THIS ISSUE ARE AS FOLLOWS.
- 2. LACK OF TRANSPARENCY IS ONE OF THE BIGGEST PROBLEMS FACING US EXPORTERS IN CHINA. THIS PROBLEM EXISTS AT ALL LEVELS OF GOVERNMENT AND EXTENDS TO DEALINGS WITH FOREIGN TRADE ENTERPRISES OTE) AS WELL. CHINESE OFFICIALS WAVE TOLD US THAT PROPRIEGATION LAST YEAR OF AN ADMINISTRATIVE PROCEDURES LAW, WHICH PERMITS GOVERNMENT OFFICIALS TO BE SUED, WILL RESULT IN GREATER TRANSPARENCY RECAUSE OFFICIALS WILL BE VULKERABLE TO SUITS BASED ON ACTIONS THEY TOOK PURSUANT TO UMPUBLICIZED REGULATIONS. MOVEVER, WE HAVE NOT NOTED "MAY INCREASE IN TRANSPARENCY IN RECENT MONTHS.
- B. IN ACCITION TO LACK OF TRANSPARENCY FOR EXISTING LAWS AND REGULATIONS, THE LAW/REGULATION MAKING PROCESS IN MOST CASES ALSO REMAINS OPAQUE TO US BUSINESS AND ROVERNMENT REPRESENTATIVES. THE FOLLOWING ARE SPECIFIC EXAMPLES WHERE LACK OF TRANSPARENCY IS A PARTICULAR PEGELEN:
- 4. TRADE REFORM: IN 1988, CHINA ADOPTED AN EXTENSIVE PACKAGE OF TRADE REFORMS. THESE REFORMS ALTERED THE RELATIONSHIP BETWEEN THE CENTRAL GOVERNMENT AND THE

PROVINCES. FTE'S RIGHTS AND AGSPONSIBILITIES WERE EXTENSIVELY MODIFIED. IN ALL, INENTY-THREE SEPARATE REFORMS WERE ADOPTED. THESE REFORMS HAVE NEVER BEEN THELISHED. THIS IS ONLY A SMALL PART OF THE BODY OF

BETJIN 81565 88 OF 87 1485322 FOREIGN TRADE REGULATIONS TO MICH WE HAVE NO ACCESS. THE CENTRAL GOVERNMENT ISSUES A STEADY STREAM OF DIRECTIVES TO SUBORDINATE GOVERNMENTAL UNITS AND FIE'S THAT AFFECT WHAT CHINA CAN IMPORT AND BY WICH. THESE DIRECTIVES USUALLY REMAIN HEIBU BIOT FOR RELEASE TO

- 5. THE FOREIGH BRADE PLAN: EVERY FALL, BEIJING CONDUCTS AN ANNUAL TRADE CONFERENCE THAT DETERMINES MORE THAN HALF OF WHAT CHINA WILL, IMPORT THE FOLLOWING YEAR. FOR A VIDE BANGE OF PRODUCTS, THE PLAN SETS ANNUAL IMPORT QUOTAS. IF PLANNERS DETERMINE THAT CHINESE BONESTIC PRODUCTION IS SUFFICIENT, AN IMPORT QUOTA WILL BE SET AT ZERO. THE IMPORT PLAN IS A VERY CLOSELY MELD BOCUMENT. BEIJING REFUSES TO REVEAL ITS CONTENTS EVEN AFTER THE FACT.
- 6. RAJOR PROJECT INFORMATION: THE ANNUAL AND FIVE-YEAR PLANS ALSO DETERMINE A LARGE PORTION OF CHINA'S FIXED INVESTMENT PROJECTS. INFORMATION REGARDING THESE PROJECTS IS OFTEN UNAVAILABLE TO US FIRMS. IMPORTS RECUIRED FOR THESE PROJECTS ARE SELDOM TENDERED FOR BIDS. INSTEAD, THE CHINESE FIE'S NEGOTIATE DIRECTLY WITH SELECTED SUPPLIERS FOR THE REQUIRED COULPMENT, Q VE MAYE NO EVIDENCE THAT US FIRMS ARE SYSTEMATICALLY DISCRIMINATED AGAINST IN THIS PROCESS, BUT IT IS A FACT OF LIFE THAT THE JAPANESE ARE PETTER AT OPERATING IN

THIS OPAQUE ENVIRONMENT THAN AMERICANS.

- 7. TEXTILE TRANSSRIPHENTS: THE CHINESE CLAIM TO HAVE ISSUED NEW REGULATIONS AIRED AT CONTROLLING THIS PROBLEM. WE HAVE REQUESTED A COPY OF THESE REGULATIONS, TO FAR WITH NO SUCCESS.
- 4. PAY CAPS: RUMORS HAVE BEEN AROUND FOR OVER A YEAR THAT MINIMUMMAXIMUM CAPS ON CHINESE EMPLOYEE SALARIES MAYE BEEN ESTABLISHED AND THAT AN INTERNAL USE DOCUMENT TO THIS EFFECT HAD BEEN ISSUED. WE HAD UNOFFICIAL CONFIRMATION OF THIS IN SHANGHAI LAST YEAR, AND BEILING CITY AUTHORITIES RECENTLY INFORMED JV MANAGERS THAT THE CAPS DO IN FACT EXIST. A TROPOUGH ACCOUNT OF THE

RESTRICTIONS AND A COST OF THE REGULATION, HOWEVER, REMAIN UNAVAILABLE.

S. INVESTMENT PRIORITY AND APPROVAL GUIDELINES: O - HAVE RHOWN FOR SOME TIME THAT THE CHINES GOVERNMENT HAS A VERY DETAILED LIST OF THE KINDS OF INVESTMENTS THAT IT WILL APPROVE. OTHER THAN DISCUSSING IN GENERAL TERMS WHAT IT LIKES ONIGH TECH, EXPORT-ORIENTED, INFRASTRUCTURE) AND DOES NOT LIKE C'HON-PRODUCTIVE' INVESTMENTS, ENTERPRISES TARGETING THE COMESTIC MARKET), THE AUTHOPITIES HAVE NOT BEEN VILLING TO GO INTO GREATER BETAIL ABOUT ITS PREFERENCES, WHICH GOVERN THE APPROVAL -PROCESS, NOR PROVIDE COPIES OF THE RELEVANT DETAILED-REGULATIONS.

10. TALKING POINTS

CHIRA'S TRADE SYSTEM IS AMONG THE WORLD'S LEAST TRANSPARENT. WE BELIEVE THIS IS A MAJOR REASON FOR THE -LOY LEVEL OF US EXPORTS TO CHINA.

F WE LACK BASIC INFORMATION TO DETERMINE THE TRADE BARRIERS WE FACE IN CHINA. HOST OF CHINA'S TRADE LAW AND REGULATIONS REMAIN NEIBU.

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- # THE ANNUAL TRADE PLAN HAS HEVER BEEN RELEASED, EVEN AFTER THE FACT. THIS PLAN DETERMINES MOST OF CRINA'S IMPORTS. WITHOUT ACCESS T THIS INFORMATION WE HAE NO WAY OF MNOVING WHETHER CHINA IS GIVING US PRODUCTS FAIR ACCESS TO THE CHINA MARKET.
- # US EXPORTERS FREQUENCY CONPLAIN THAT CHINA'S IMPORT SUBSTITUTION BULES ARE A MAJOR PROTECTIONIST BARRIER. THESE RULES GAVE NEVER BEEN PUBLICLY BELEASED. THEY ARE SUBJECT TO FREQUENT CHANGE WITHOUT HOTIFICATION.
- 8 OS FIRMS ALSO FIND IT DIFFICULT TO GRTAIN ADEQUATE INFORMATION ABOUT MAJOR INVESTMENT PROJECTS IN CHIMA. THE JAPANESE HAVE DEVELOPED A NETWORK OF RELATIONSHIPS WITH CHIMESE IMPORTERS THAT WORKS TO THE BISADVANEAGE OF U.S. FIRMS, LILLEY